

CORRECTING DEFICIENCIES IN THE LAW RELATING TO THE CRIMES OF COUNTERFEITING AND FORGERY

AUGUST 5, 1971.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. DANIELSON, from the Committee on the Judiciary,
submitted the following

REPORT

[To accompany H.R. 9222]

The Committee on the Judiciary, to whom was referred the bill (H.R. 9222) to correct deficiencies in the law relating to the crimes of counterfeiting and forgery, having considered the same, report favorably thereon with amendments and recommend that the bill do pass.

The amendments are as follows:

Page 2, line 6, strike "endorsement" and insert "indorsement".

Page 2, line 14, strike "endorsement" and insert "indorsement".

Page 3, line 25, after "instrument" insert "specifically designed to be".

PURPOSE

The purpose of the proposed legislation, as amended, is to amend section 500 of title 18, United States Code, concerning the counterfeiting and forgery of money orders by restating the existing provisions of the section and by adding language to clarify the law and to extend the scope of the section. The amendments include provisions concerning the theft or conversion of blank money order forms and the unauthorized receipt, possession, or disposition of blank money order forms. The amended section would cover the theft of money order machines or any stamp, tool, or instrument specifically designed to be used in preparing or filling out the blanks on a money order form and also the possession or disposition of those items without the lawful authorization of the Postal Service.

STATEMENT

The bill, H.R. 9222, was introduced in accordance with the recommendations of the Postal Service which recommends enactment of the legislation.

The bill, H.R. 9222, amends section 500 of title 18 of the United States Code which relates to criminal acts involving the Postal Money Order System. As indicated in the communication of the Postal Service, the amendments provided for in this bill are necessary to bring the provisions of the section up to date and to correct specific deficiencies.

The communication transmitted to the Congress by the Postmaster General stated that the United States had encountered problems seeking convictions of persons accused of stealing or fraudulently passing money orders. This is indicated in investigative reports from all sections of the United States which show that the present provisions of section 500 of title 18 do not adequately cover many of the stolen and forged money order cases.

The Postal Inspection Service faces serious problems in attempting to block traffic by professional criminals in money orders stolen in blank in post office burglaries which are thereafter forged and passed throughout the United States.

An outline of the history of the provisions of section 500 of title 18 serves to illustrate how provisions developed to meet problems in the past now require amendment to meet the current situation in law enforcement in this phase of Federal activity. The Postal Money Order System was established on May 17, 1864 by the enactment of a law during the first session of the 38th Congress (13 Stat. 76, ch. 87). Section 12 of that act provided sanctions for counterfeiting, forging, or knowingly passing, any such falsely made postal money order. However, neither the original statute nor the law as presently codified in section 500 of title 18 proscribes the theft of blank money orders as such, the unlawful receipt or possession of such orders, or the theft or possession of postal money order issuing instruments and validating equipment. In policing the Postal Money Order System, and in combating the modern-day post office burglar and the sophisticated fencing apparatus with which the Government is now frequently confronted in these cases, postal inspectors and U.S. attorneys are now forced, at times, to rely on other statutes to provide a prosecutive means to curb the criminal acts just described. It must be recognized that these statutes were designed with other fundamental abuses in mind. They provide a rather poor fragmented substitute for the comprehensive money order law, which would be provided by section 500 of title 18 with the amendments proposed in H.R. 9222.

In order to provide a more complete understanding of the need for the enactment of the proposed amendments and to gain information concerning the practical problems being encountered in this area of the law enforcement, subcommittee No. 2 of this committee conducted a hearing on H.R. 9222 on July 21, 1971. At that hearing the witness appearing in behalf of the Postal Service supplied information which, in the opinion of this committee, shows a firm basis for this legislation.

During fiscal year 1970, which is the last full fiscal year for which

the Postal Service has completed statistics, postal accountability in terms of cash, postage stamps, or money orders, was maintained in 43,112 post offices and postal stations in our States and territories. The witness stated that a total of 1,972 criminal assaults occurred during the year on these facilities, ranging from highly professional torch attacks on walk-in security vaults, to simple sneak-thief attempts at service windows. Cash and stamp stock, totaling \$3,141,813, were stolen, as were 78,868 blank postal money orders. Since each money order may be issued in the maximum sum of \$100, this represents a potential gain of nearly \$8 million to the burglars and thieves. However, the continued improvement of security features with respect to the money order system together with improved loss notification and communication procedures has made it impossible for the criminal element to realize the maximum profit from stolen orders. Thus, while over 78,000 blank money orders were stolen in fiscal 1970, only 4,868, in the total sum of approximately \$450,000 were fraudulently cashed during the year.

Prior to 1962, postal personnel wrote the amount on each order at the time it was issued. If blank money orders were stolen, the thief or passer had but to write this amount in himself. In June 1962, however, each post office and station was supplied one or more money order machines to be used in imprinting on the order the amount for which issued. The following year, only 1,861 stolen money orders were cashed. A 13.04 percent decline from the previous year.

At the hearing on July 21, 1971, the Postal Service witness observed that the criminal element is adept at devising new techniques with which to counter protective devices. Increasingly, since 1962, post office burglars have been stealing the money order imprinting machines, as well as other validating stamps and instruments, when they burglarize post offices. Apparently due to a recognition that they face increasingly rapid dissemination of loss notification procedures by the Government, burglars do not attempt to prepare and negotiate the stolen orders themselves, to the extent that they did in years past. In order to avoid this relatively hazardous act, they sell the blank orders and the validating equipment to fences, who, in turn, may sell to other fences, and so on, until they reach a person willing to assume the risk of passing the stolen orders.

It is in connection with the efforts of the Postal Service to deal effectively with those who engage in these fencing operations, that postal inspectors and U.S. attorneys, at times, encounter legal difficulties. To an increasing degree, this effort requires that postal inspectors post as potential purchasers of postal money orders stolen in burglaries in order to gain information concerning criminal activity and obtain evidence upon which to base prosecutions. Generally, the information concerning these postal money orders comes from criminal sources, and these are inherently dangerous situations for the Government personnel involved. Arrests are generally effected when the sale is made or shortly thereafter. However, since the money orders nearly always in blank form, section 500 of title 18, United States Code, cannot be utilized as a prosecutive vehicle. Under these circumstances, the orders have not been altered nor has any signature thereon been forged. Specifically, the problem is that section 500 now contains

no "possession" clause with respect to blank orders or validating equipment. As has been noted, law enforcement officials have found that the latter items are frequently fenced along with the blank orders.

Since section 500 does not now cover this criminal activity, U.S. attorneys must base prosecutions upon other statutes. Principal reliance is placed on section 641 of title 18, United States Code, which provides criminal penalties for persons found guilty of theft or knowingly receiving and retaining with intent to convert money or other property of the United States. However, section 641 requires that the "value" of the property be demonstrated, for if the value does not exceed \$100, the act may be treated only as a misdemeanor. This is a crucial matter in this type of case. The committee has been advised that in prosecutions under section 641, difficulty has been experienced in establishing, to a court's satisfaction, the actual value of a blank money order. This feature has hindered the Government's efforts to file felony charges against professional money order fences under section 641. The criminal activities of the fences are regarded as most serious in that without their active presence, burglars would find blank money orders less attractive as a burglary objective. In this connection, it should be noted that the Eighth Circuit Court of Appeals in the case of *Churder v. United States*, 387 F. (2d) 825, held on January 9, 1968, that the value of blank money orders was not to be merely regarded in terms of their value as paper, but rather their value on a thieves' market. Testimony in that particular case indicated the value to the thief to be between \$3 to \$5 per blank order. Despite this decision, the Government still has the problem of establishing a felony offense in those instances when the criminal had only a few stolen money orders in his possession at the time of arrest. The committee feels that it is obvious that the criminal possession of an official money order imprinting machine presents a decided hazard to the business and banking community, as well as to the Postal Service. Yet, the intrinsic value of the machine can only be cited at approximately \$56. The result is that a person charged with illegal possession of such a machine under existing law can only be found guilty of a misdemeanor (1 U.S.C. 18; 641 U.S.C. 18).

At the hearing on July 21, 1971, the subcommittee was given an example of the problems encountered in this connection. It was stated that in a case investigated a few years ago, underworld efforts were reportedly being made to fence 400 stolen postal money orders for the asking price of \$20,000. Arrangements were successfully made to consummate a "buy" but when contact was effectuated, the offender only had five "sample" orders in his possession. Circumstances, nevertheless, required his immediate arrest and the U.S. attorney felt compelled to only place a misdemeanor charge, anticipating later difficulty in establishing a total value of over \$100 for the five orders. The committee has also been advised that in a more recent case reported by the Denver Division Office of the Postal Service, a rather crude attempt was made by a burglary suspect to pass a money order stolen in the burglary. The order had not been fully completed and contained no alterations or writings that could be shown to be that of the subject attempting to pass it. As a consequence, the U.S. attorney concluded prosecution could not be enter-

tained under section 500, since the order bore no alteration or forged signature or endorsement, and further reasoned that prosecution under section 641 would be difficult to support in light of the value requirement. As a result, prosecution was not entertained.

In reviewing the language of this bill, the committee feels that a clarifying amendment should be made to the new language concerning the unauthorized receipt, possession, and disposal of validating equipment. At the hearing the members of the subcommittee expressed a concern that the description of the terms referring to that equipment might not be sufficiently precise. Specifically, it was feared that the language might be interpreted to include items other than the validating equipment intended to be covered by the bill as discussed in this report. As originally introduced, the provisions in line 25 of page 3, and lines 1 and 2 of page 4 of the bill concerning issuing instruments describe them as those “* * * used in preparing or filling out the blanks on such money order forms * * *”. Currently, each post office and station uses money order machines to imprint the amount for which money orders are issued. The word “instrument” clearly applies to these machines. However, in issuing a money order, the issuing clerk must initial the money order. In the event that the money order machine malfunctions, the clerk is authorized to fill out the money order manually. It might be argued that the pen used by the clerk in performing those functions would be an “instrument” as described in the original language of the bill. The committee has concluded that the language should be clarified to express the precise intent of this aspect of the bill, that is to cover offenses involving issuing and validating equipment specifically designed to be used in preparing or filling out money order forms. Accordingly, the committee has recommended an amendment adding the words “specifically designed to be” following the words “stamp, tool, or instrument” so as to accomplish this purpose. Thus the language will include items particularly utilized and required in the issuance of postal money orders while excluding items of general office use such as pens, pencils, and typewriters.

The committee has determined on the basis of the matters discussed in this report and presented at the hearing on H.R. 9222, that there is a clearly defined need for the amendments to section 500 of title 18 as provided in the amended bill. With these amendments, the law concerning illegal activities involving money orders will be included in one section of title 18. The revised language will also more clearly define the offenses which adversely affect the operation of the Postal Money Order System. It is recommended that the amended bill be considered favorably.

ANALYSIS OF CHANGES TO SECTION 500 OF TITLE 18, UNITED STATES CODE, AS PROVIDED FOR IN THE BILL AND AS REFLECTED IN THE COMPARATIVE PRINT

Page 1, lines 9 and 10, the new words “or under the direction of” are inserted in the first paragraph of the section so that the reference is to money orders purported to be issued by “or under the direction of the Post Office Department or Postal Service”. This is improved language which is more precise in its reference to purported official

action. The amendment deletes the previous reference to officers or employees by eliminating the words "or by any officer or employee thereof", and, as noted below, substitutes "... person authorized to issue money orders. . .".

Page 1, line 11, the word "initials" is added so that the language refers to "initials" as well as "signature".

Page 2, line 1, the words "persons authorized to issue money orders" are substituted for "officer or employee of the Postal Service".

Page 2, line 2, the word "or" is added before "postal note".

Page 2, line 4, the word "the" was deleted before "Postal Service".

Page 2, line 14, the words "stamp impression" are added to the paragraph.

Page 2, lines 24 and 25, and page 3, lines 1, 2, and 3, a new paragraph is added to the section providing:

Whoever embezzles, steals, or knowingly converts to his own use or to the use of another, or without authority converts or disposes of any blank money order form provided by or under the authority of the Post Office Department or Postal Service; or

This new language covers embezzlement, theft, conversion, or disposition of blank money order forms.

Page 2, lines 4 through 7, a new paragraph is added to the section providing:

Whoever receives or retains any such money order form with the intent to convert it to his own use or gain or use or gain of another knowing it to have been embezzled, stolen or converted; or

This language covers the receipt or retention of a money order form as referred to in the previous language with an intent of converting it for use or gain with knowledge that the form was embezzled, stolen, or converted.

Pages 3, lines 8 and 9, a reference to "the Postal Service" is added following the words "United States" as presently provided in the section.

Page 3, lines 9 and 10, the word "or" is deleted before the word "presents" and after that word, the words "or causes to be transmitted or presented," are added. The words "to any officer or employee, or at the office of the United States" would be deleted. The balance of the present language of the paragraph is revised following the words "any money order or postal note knowing the same" so the new language set forth in lines 12 through 20 of the bill sets out clearly the illegal actions concerning money orders which are prescribed. Thus, the paragraph would cover transmittal or presentation of any money order or postal note with an intent to defraud the United States, the Postal Service, or any person with knowledge that the money order or postal note is of a type included in the following categories:

- (1) to contain any forged or counterfeited signature, initials, or any stamped impression, or
- (2) to contain any material alteration therein unlawfully made, or

- (3) to have been unlawfully issued without previous payment of the amount required to be paid upon such issue, or
- (4) to have been stamped without lawful authority; or

Page 3, lines 21 through 25 and page 4, lines 1 and 2, the bill adds a new paragraph as follows:

Whoever steals, or with intent to defraud or without being lawfully authorized by the Post Office Department or Postal Service, receives, possesses, disposes of or attempts to dispose of any postal money order machine or any postal money order form or any stamp, tool, or instrument used in preparing or filling out the blanks on such money order forms—

This is the language concerning the theft, receipt, possession, disposition or attempted disposition of a postal money order machine, any postal money order form, or any stamp, tool, or instrument specifically designed to be used in preparing or filling out the blanks on such money order form. As has been noted in this report, the words "specifically designed to be" are recommended by the committee in an amendment to the bill.

[The communication of the U.S. Postal Service recommending the enactment of the proposed legislation is as follows:]

THE POSTMASTER GENERAL,
Washington, D.C., June 14, 1971.

HON. CARL B. ALBERT,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: There is transmitted herewith a draft of a proposed bill to correct certain deficiencies in the law relating to the crimes of counterfeiting and forgery.

We recommend that this proposed bill be referred to the appropriate committee for consideration, and that it be enacted.

The present provisions of section 500 of title 18 of the United States Code present several problems with respect to the successful prosecution of money order thieves and passers.

Investigative reports from all sections of the United States indicate that the present law does not adequately cover many of the stolen and forged postal money order cases. Traffic by professional criminals in money orders stolen in blank in post office burglaries and thereafter forged and passed throughout the United States is a serious problem facing the Postal Inspection Service today. Present section 500 does not cover the forms now used in the issuance of postal money orders or the media of their issuance.

Postal money orders at one time were processed manually. Today, the Department processes them by use of machines. When theft of money orders occurs, it may include the processing machinery itself which makes the task of prosecuting a forger even more difficult.

The proposed legislation will correct the above-stated difficulties and update section 500. It restates the existing law adding three new paragraphs, positioned as the sixth, seventh, and ninth paragraphs. Minor amendments are made in the first, second, fourth, fifth, and eighth paragraphs and no change is made in the third paragraph.

The new paragraph six will make it an offense to steal, embezzle, or convert a blank money order form, while the new paragraph seven makes it an offense to receive the same. The new paragraph nine will make it an offense to receive, possess, or dispose of postal money order machines and postal money order forms or validating and control stamps. The lack of such provision in present law has hampered the prosecution of such offenses.

While section 641 of title 18, United States Code, covering the theft of Government property has been of assistance in the prosecution of the theft of blank money orders, the section hampers prosecution because it presents the question of whether the value of the stolen blank money order is the intrinsic paper value (which would make this theft a misdemeanor only), or whether it is the value to which the offender intended to convert the money order, which value may or may not be known at the time of apprehension, or at best would be extremely difficult to prove.

The Office of Management and Budget has advised that from the standpoint of the administration's program there is no objection to the submission of this legislative proposal to the Congress.

Sincerely,

WINTON M. BLOUNT.

A BILL To correct deficiencies in the law relating to the crimes of counterfeiting and forgery

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that Section 500 of Title 18, United States Code, as amended by Section 6(j)(5) of the Postal Reorganization Act, P.L. 91-375, is further amended to read as follows:

"SEC. 500. MONEY ORDERS.—Whoever, with intent to defraud, falsely makes, forges, counterfeits, engraves, or prints any order in imitation of or purporting to be a money order issued by or under the direction of the Post Office Department or Postal Service; or

Whoever forges or counterfeits the signature or initials of any person authorized to issue money orders upon or to any money order, or postal note, or blank therefor provided or issued by or under the direction of the Post Office Department or Postal Service, or post office department or corporation of any foreign country, and payable in the United States, or any material signature or indorsement thereon, or any material signature to any receipt or certificate of identification thereof; or

Whoever falsely alters, in any material respect, any such money order or postal note; or

Whoever, with intent to defraud, passes, utters or publishes or attempts to pass, utter or publish any such forged or altered money order or postal note, knowing any material initials, signature, stamp impression or indorsement thereon to be false, forged, or counterfeited, or any material alteration therein to have been falsely made; or

Whoever issues any money order or postal note without having previously received or paid the full amount of money payable therefor, with the purpose of fraudulently obtain-

ing or receiving, or fraudulently enabling any other person, either directly or indirectly, to obtain or receive from the United States or Postal Service, or any officer, employee, or agent thereof, any sum of money whatever; or

Whoever embezzles, steals, or knowingly converts to his own use or to the use of another, or without authority converts or disposes of any blank money order form provided by or under the authority of the Post Office Department or Postal Service; or

Whoever receives or retains any such money order form with the intent to convert it to his own use or gain or use or gain of another knowing it to have been embezzled, stolen or converted; or

Whoever, with intent to defraud the United States, the Postal Service, or any person, transmits, presents, or causes to be transmitted or presented, any money order or postal note knowing the same—

(1) to contain any forged or counterfeited signature, initials, or any stamped impression, or

(2) to contain any material alteration therein unlawfully made, or

(3) to have been unlawfully issued without previous payment of the amount required to be paid upon such issue, or

(4) to have been stamped without lawful authority; or

Whoever steals, or with intent to defraud or without being lawfully authorized by the Post Office Department or Postal Service, receives, possesses, disposes of or attempts to dispose of any postal money order machine or any postal money order form or any stamp, tool or instrument used in preparing or filling out the blanks on such money order forms—

Shall be fined not more than \$5,000 or imprisoned not more than 5 years, or both.

CHANGES IN EXISTING LAW

In compliance with paragraph 2 of clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 18.—CRIMES AND CRIMINAL PROCEDURE

* * * * *

CHAPTER 25.—COUNTERFEITING AND FORGERY

* * * * *

§ 500. Money orders.

Whoever, with intent to defraud, falsely makes, forges, counterfeits, engraves, or prints any order in imitation of or purporting to be a money order issued by *or under the direction of* the Post Office Department or Postal Service [], or by any officer or employee thereof []; or

Whoever forges or counterfeits the signature *or initials* of any [officer or employee of the Postal Service,] *person authorized to issue money orders* upon or to any money order, *or* postal note, or blank therefor provided or issued by or under the direction of the Post Office Department or [the] Postal Service, or post office department or corporation of any foreign country, and payable in the United States, or any material signature or endorsement thereon, or any material signature to any receipt or certificate of identification thereof; or

Whoever falsely alters, in any material respect, any such money order or postal note; or

Whoever, with the intent to defraud, passes, utters or publishes [.] or attempts to pass, utter or publish any such forged or altered money order or postal note, knowing any material *initials*, signature, *stamp impression* or indorsement thereon to be false, forged, or counterfeited, or any material alteration therein to have been falsely made; or

Whoever issues any money order or postal note without having previously received or paid the full amount of money payable therefor, with the purpose of fraudulently obtaining or receiving, or fraudulently enabling any other person, either directly or indirectly, to obtain or receive from the United States or *Postal Service*, or any officer, employee, or agent thereof, any sum of money whatever; or

Whoever embezzles, steals, or knowingly converts to his own use or to the use of another, or without authority converts or disposes of any blank money order form provided by or under the authority of the Post Office Department or Postal Service; or

Whoever receives or retains any such money order form with the intent to convert it to his own use or gain or use or gain of another knowing it to have been embezzled, stolen or converted; or

Whoever, with intent to defraud the United States, *the Postal Service*, or any person transmits, [or] presents [to any officer or employee, or at any office of the United States], *or causes to be transmitted or presented*, any money order or postal note knowing the same [to contain any forged or counterfeited signature to the same, or to any material indorsement, receipt, or certificate thereof, or material alteration therein unlawfully made, or to have been unlawfully issued without previous payment of the amount required to be paid upon such issue—]

(1) *to contain any forged or counterfeited signature, initials, or any stamped impression, or*

(2) *to contain any material alteration therein unlawfully made, or*

(3) *to have been unlawfully issued without previous payment of the amount required to be paid upon such issue, or*

(4) *to have been stamped without lawful authority; or*

Whoever steals, or with intent to defraud or without being lawfully authorized by the Post Office Department or Postal Service, receives, possesses, disposes of or attempts to dispose of any postal money order machine or any postal money order form or any stamp, tool, or instrument specifically designed to be used in preparing or filling out the blanks on such money order forms—

Shall be fined not more than \$5,000 or imprisoned not more than five years, or both.





